

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Mines & Geology Department – Sanction of decretal amount of Rs.4,35,409/- to the Assistant Director of Mines & Geology, Guntur for depositing in the Hon'ble IInd Addl.Sr.Civil Judge, Guntur as ordered by the Hon'ble High Court of Andhra Pradesh Hyderabad as per the orders in ASMP No.415 of 2011 in ASSR No.15106 of 2010, dated:23-2-2011 – Permission accorded - Orders – Issued.

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INDUSTRIES & COMMERCE (SPIU & SAND) DEPARTMENT

G.O.Rt.No. 456

Dated:06-08-2011

Read the following :

- 1)From the Director of Mines & Geology, file No.15533/R8-2/2010, dated:22-3-2011 & 18-5-2011.
- 2)Govt.Memo.No.3898/SPIU&SAND/2011-2, dt.4.6.2011.
- 3)From the Assistant Director of Mines & Geology, Guntur Lr.No.1970/S/2004, dt.25.07.2011.

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ORDER:

In the file 1st read above, the Director of Mines & Geology, A.P. Hyderabad has informed that, the Assistant Director of Mines & Geology, Guntur reported that Sri Kondapati Uma Maheswara Rao, S/o.Venkateswara Rao, R/o Lingayapalem Village, Thulluru Mandal, Guntur District filed O.S.No. 259/2004 before the Hon'ble Court of II Additional Senior Civil Judge, Fast Track Court, Guntur with a plea that he was holding a sand quarry lease at Reach No:6 & 7 Kolluru & Juvalapalem of Krishna River, for the period of 2001-02. During the lease period from 10-6-2001 to 09-6-2002, Aravinda Varadhi bridge was constructed in the said reach limits of Krishna River. The Contractor, who constructed the Aravinda Varadhi Bridge, illegally carried sand from the subject Reach, without paying the Seigniorage fee to him, the actual lessee. The Executive Engineer, R & B Division, Tenali, collected the Seigniorage fee, but did not pay to him.

2. Subsequently, the Hon'ble Court of II Additional Senior Civil Judge, Fast Track Court, Guntur vide O.S.No.259/2004, dated:25-6-2009, on the said O.S. filed by Sri K.Uma Maheswara Rao and others, ordered and decreed as follows:-

- (i) that the defendants 1 to 4 do pay to the Plaintiff a sum of Rs.8,10,543/- with subsequent interest @ 6% per annum from the date of suit till the date of realization on the Principal amount of Rs.6,34,476/-; and
- (ii) that each party do bear their own costs of Rs.Nil (i.e., plaintiff and defendants Hon'ble Chief Minister and FC not filed).

3. Further, the Hon'ble Court of II Additional Senior Civil Judge, Guntur in E.P.No:288/2009 in O.S.No:259/2004 on 20-8-2009 have passed decree and directed the defendants to deposit the warrant amount of Rs.10,13,280/- towards compensation to the Plaintiff and the Hon'ble Court issued notice under OR 21 Rule 43 CPC against the 1st JDR i.e., District Collector, Guntur attach to the movable properties of O/o the District Collector, as per the schedule annexure to the extent of warrant amount and later as per OR. 21 R. 66 & 64 CPC., the attached property to be sold in public auction and out of the realized amount, the warrant amount to be paid to the D.H.Rs to the satisfaction of the Decree.

4. The Collector & District Magistrate, Guntur vide letter No:3068/89-L2, dated:9-4-2010 while forwarding the copies of the orders of the Hon'ble Court instructed the Assistant Director of Mines & Geology, Guntur to take immediate action for depositing the warrant amount of Rs.10,13,280/- before the Court within the stipulated time.

P.T.O.

5. The Director of Mines & Geology, has also stated that the Assistant Director of Mines & Geology, Guntur enquired the matter with the Panchayath Raj Department, and noticed that Sri K.Uma- Maheswara Rao (late) was holding the sand quarry lease at Reach No:6 & 7 of Kolluru & Juvalapalem of Kolluru Mandal, Guntur District. During the period 2001-02, the Executive Engineer, R & B, Tenali vide letter No:PAO/W&P/ GNT/Sn.II/AH/2009-10/87, dated:22-10-2009 informed that the work "construction of carriage way across Krishna River in M 1.4 to 2.0 KM of Pesarlanka – Kothurulanka Road in Guntur District" was entrusted to Sri B.V. Subba Reddy, Contractor, Hyderabad, vide Agreement No:26/2000. The work was completed as per agreement condition with in the stipulated period. As per the agreement clause 100 & 100.1 & 100.2, the Seigniorage Charges are to be calculated by the Department, i.e., Executive Engineer, R & B, Division, Tenali, who is the works executive authority. The E.E., vide his further letter, dated:13-4-2010 furnished the details of recovery of Seigniorage charges made from the work bills of the Contractor and credited the same to the following Head of Account (i.e., to Mines & Geology Department) as per the Rules in vogue, by the Pay & Accounts Officer (Works & Projects), Guntur i.e.,

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| 0853 | - | Non Ferrous Mining & Metallurgical Inds. |
| 102 | - | Mineral Concession Fee, Rents & Royalties |
| 02 | - | Royalty on Mino Minerals /Dead Rent |

6. The Director of Mines & Geology, further stated that as per the condition of G.O.Ms.No:23 I & CAD Department, dated:5-3-1999 "*The Contractors will no longer be required from now onwards to produce clearance certificate from the Mines Department and Seigniorage charges will be deducted by the concerned works Department from the bills of the Contractors for the materials used on the work only*". The Executive Engineer, R & B Division, Tenali and subsequently the Pay & Accounts Officer, Guntur have deducted the Seigniorage Fee amount of Rs.6,34,476/-.

7. The Director of Mines & Geology, further reported that the Assistant Director of Mines & Geology, Guntur enquired the matter with the Government Pleader, Guntur, for filing appeal against the decree in O.S.No:259/04. In response to that the G.P., Guntur had stated that he has already given opinion to the District Collector, Guntur on 8-9-2009. According to which, "*there are no tenable grounds to prefer appeal against the decree and judgment of the 2nd Additional Senior Civil Judge, Guntur as per any perusal of content of the judgment. As per my opinion, the Honorable Court rightly allowed the suit filed by the plaintiffs*". Hence, the G.P., requested the District Collector, Guntur to honor the decree and judgment of the Hon'ble Court and pay the amount to the plaintiff as soon as possible.

8. The Assistant Director of Mines & Geology, Guntur filed an Appeal vide ASSR No:15106/2010 against the judgment in O.S.No:259/04 in the Hon'ble High Court of A.P. Another two miscellaneous petitions have been also filed vide A.S.M.P. No:366/2011 to condone the delay petition and A.S.M.P.No:415/2011 seeking stay on the order, dated:25-6-2009 on O.S.No:259/04.

9. The Hon'ble High Court of A.P., Hyderabad vide orders, dated:23-02-2011 in A.S.M.P.No:415/2011 in ASSR No:15106/2010 while condoning the delay, ordered that:-

"There shall be interim stay subject to condition of the petitioners depositing 50% of the decretal amount together with interest and costs, within a period of eight (8) weeks from today, failing which, the stay shall stand vacated without further reference to the court".

10. The Director of Mines & Geology, also stated that the Government Pleader for Appeals, High Court of A.P., vide Lr.No:ASMP/No:415/2011/KR/2011, dated:30-4-2011 opined in the matter that:-

"absolutely there is no ambiguity in the interim order passed by the Hon'ble High Court in ASMP No:415/2011 in ASSR No:15106/2010. The said order is an interim stay issued by the Hon'ble High Court subject to condition that petitioner shall deposit 50% of decretal amount together with interest and cost.

It is the condition imposed passed by the Hon'ble High Court while granting an interim order therefore, no opinion is required when terms of the order is clear".

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11. The Director of Mines & Geology, further stated that as per the decree, Principal amount is Rs.6,34,476/- + interest amount of Rs.1,76,067/- total amount is Rs.8,10,543/- together with subsequent interest @ of 6% per annum, from the date of judgment to till date of High Court orders dated: 23-02-2011, works out Rs.60,275/- which comes to total Rs.8,70,818/-. As per the Hon'ble High Court orders, the 50% of the decretal amount together with interest and costs is Rs.4,35,409/-.

12. The Director of Mines & Geology, Hyderabad has therefore requested the Government to sanction an amount of Rs.4,35,409/- duly according permission to the Assistant Director of Mines and Geology, Guntur, to draw and deposit the said amount, as per the High Court orders in ASMP No.415 of 2011 in ASSR No.15106 of 2010, dated:23-02-2011, from the following head of account:-

0853 – Non-Ferrous Mining and Metallurgical Industries
MH 900 - Deduct Refunds
SH (96) - Deduct Refunds (to be opened).

13. Accordingly, in the reference 2nd read above, Government have accorded permission to the Assistant Director of Mines and Geology, Guntur, to draw the 50% of the decretal amount together with interest of Rs.4,35,409/- from the Head of Account mentioned at para-12 above and deposit the same before the II Additional Senior Civil Judge, Guntur in connection with the judgement and decree passed in O.S.No.259 of 2004, dated:25-6-2009.

14. In the reference 3rd read above, the Assistant Director of Mines & Geology, Guntur has stated that when the bill was submitted to the Sub Treasury Officer, Guntur the same was returned with certain observations i.e. concurrence of Finance Department and also opening of the above said Head of Account in the impact system. In the mean time, the Hon'ble IInd Senior Civil Judge, Guntur on 25.7.2011 had made an announcement in the Court Hall that "*if no deposit is received on or before 12.08.2011 further orders will be issued for attachment of property of Collectorate, Guntur for having failure for depositing the decree amount*". In view of this, the Assistant Director of Mines & Geology, Guntur has requested the Government to take further course of action for opening the new Head of Account, and to deposit the said decree amount in the Hon'ble IInd Addl.Sr.Civil Judge, Guntur as ordered by the Hon'ble High Court of A.P. Hyderabad.

15. Government after, careful examination of the matter, keeping in view the orders of Hon'ble High Court of A.P., in ASMP No.415 of 2011 in ASSR No.15106 of 2010, dated:23-02-2011, and in exercise of the powers conferred under Rule 9-K(3) of A.P.Minor Mineral Concession Rules, 1966, hereby accord permission to the Assistant Director of Mines and Geology, Guntur, to draw the 50% of the decretal amount together with interest of Rs.4,35,409/- from the Head of Account mentioned at para-12 above and deposit the same before the II-Additional Senior Civil Judge, Guntur in connection with the judgement and decree passed in O.S.No.259 of 2004, dated:25-6-2009.

16. The Assistant Director of Mines & Geology, Guntur is authorized to draw the amount sanctioned in Para 15 above and to take further action accordingly.

17. This order issues with the Concurrence of Finance Department vide their U.O. No. 7794.B/331/Exp. I&C/2011, Dt:06-08-2011.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. PREAM CHAND
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Director of Mines & Geology, A.P. Hyderabad.
The Assistant Director of Mines & Geology, Guntur District.

Copy to:

The Accountant General, AP, Hyderabad.
The Director of Treasuries & Accounts, Hyderabad (with a request to issue necessary instructions to the concerned).

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The District Treasury Officer, Guntur, District.

The District Collector, Guntur.

The Joint Collector and Chairman, D.L.S.C. Guntur District.

The Chief Executive Officer, Zilla Parishad, Guntur District.
SF/SC.

//Forwarded::By order//

SECTION OFFICER